

RESOLUTION NO. _____

Passed: _____

A Resolution of the City Commission of the City of Gainesville, Florida, authorizing the City Manager to execute a Locally Funded Agreement FIN 207817-1-32-01 between the City of Gainesville and the State of Florida Department of Transportation and a Memorandum of Agreement between the City of Gainesville, the State of Florida Department of Transportation and the State of Florida Department of Insurance.

WHEREAS, the City of Gainesville and the State of Florida Department of Transportation mutually agree that it is in their joint best interest to facilitate the transportation project that is known as the development of landscape plans for State Road 26 (West University Avenue) from State Road 26A West (SW 2nd Avenue) to North-South Drive, located in Gainesville, Alachua County, hereinafter referred to as the "PROJECT"; and

WHEREAS, the City of Gainesville through a Campus Development Agreement dated December 30, 1998, and amended March 12, 2001, with the Florida Board of Regents, the University of Florida, the City of Gainesville, and Alachua County agreed to contribute funds to the PROJECT; and

WHEREAS, Chapter 163, Florida Statutes, authorizes cooperative efforts between various public agencies.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF GAINESVILLE, FLORIDA:

1. The City Manager or designee is authorized to execute a Locally Funded Agreement with the State of Florida Department of Transportation to provide funding assistance for the PROJECT.
2. The City Manager or designee is authorized to execute a Memorandum of Agreement between the State of Florida Department of Transportation and the State of Florida Department of Insurance.
3. This Resolution shall become effective immediately upon adoption.

Dated the _____ day of _____ AD, 2002.

Thomas D. Bussing
Mayor

ATTEST:

APPROVED AS TO FORM AND LEGALITY:

Kurt M. Lannon
Clerk of the Commission

Marion J. Radson
City Attorney

Financial Project ID: 207817-1-32-01
Work Program Item No. (Old): 2110521
County/Section No.: 26-070-000

**STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
LOCALLY FUNDED AGREEMENT**

THIS AGREEMENT, made and entered into this _____ day of _____, _____, by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, a department of the State of Florida, hereinafter called the "DEPARTMENT", and the CITY OF GAINESVILLE CITY COMMISSION, hereinafter called the "AGENCY".

WITNESSETH:

WHEREAS, the AGENCY by Resolution No. _____, a copy of which is attached hereto as Exhibit "C" and made a part hereof, has authorized its officers to execute this Agreement on its behalf; and

WHEREAS, the DEPARTMENT is authorized to contract with local governmental entities to the maximum extent possible for performance of its transportation responsibilities; and

WHEREAS, Chapter 163, Florida Statutes, authorizes cooperative efforts between various public agencies; and

WHEREAS, the parties mutually agree that it is in their joint best interest to facilitate the transportation project which is known as the development of design plans to landscape State Road 26 (Newberry Road/West University Avenue) from State Road 26A West (SW 2nd Avenue) to North-South Drive, located in Gainesville, Florida, hereinafter referred to as the "PROJECT" and more specifically described in Exhibits "A" and "B"; and

WHEREAS, the DEPARTMENT shall be responsible for the PROJECT as identified in Exhibit "A"; and

WHEREAS, the AGENCY will contribute funds to the PROJECT as provided in the attached Memorandum of Agreement between the AGENCY, the DEPARTMENT and the State of Florida, Department of Insurance, Division of Treasury, as identified in Exhibit "B", Project Budget, which is attached hereto and by reference made a part hereof; and

WHEREAS, the parties are authorized to enter into this Agreement under the provisions of Section 339.12, Florida Statutes.

NOW, THEREFORE, for and in consideration of the terms and mutual benefits set forth herein, the parties hereby enter into this Locally Funded Agreement and represent, covenant and agree as follows:

1a) The AGENCY agrees that they will, by April 1, 2002, pay to the DEPARTMENT the amount of \$100,000.00 as a contribution by the AGENCY towards the cost of the PROJECT, Financial Project ID: 207817-1-32-01, Work Program Item No. (Old): 2110521. The AGENCY agrees to bear all expenses in excess of the total estimated cost of the local portion of the PROJECT and any deficits involved. No additional local expenses may be incurred without prior written approval of the AGENCY.

1b) Should contract modifications occur that increase the total project costs, the AGENCY will be notified by the DEPARTMENT accordingly. The AGENCY agrees to provide, in advance of the additional work being performed, adequate funds to ensure that cash on deposit with the DEPARTMENT is sufficient to fully fund the PROJECT. The DEPARTMENT shall notify the AGENCY as soon as it becomes apparent the actual costs will overrun the estimated cost; however, failure of the DEPARTMENT to so notify the AGENCY shall not relieve the AGENCY from its obligation to pay for its full participation.

1c) The payment of funds under this Locally Funded Agreement will be made as provided in the attached Memorandum of Agreement between the AGENCY, the DEPARTMENT and the State of Florida, Department of Insurance, Division of Treasury.

1d) Upon final payment for development of the landscape design plans, the DEPARTMENT intends to have its final and complete accounting of all costs incurred in connection with the work performed hereunder within three hundred sixty days. All PROJECT cost records and accounts shall be subject to audit by a representative of the AGENCY for a period of three (3) years after final close out of the PROJECT. The AGENCY will be notified of the final cost. Both parties agree that in the event the final accounting of total PROJECT costs pursuant to the terms of the Agreement is less than the total deposits to date, a refund of the excess will be made by the DEPARTMENT to the AGENCY in accordance with Section 215.422, Florida Statutes.

1e) In the event it becomes necessary for the DEPARTMENT to institute suit for the enforcement of the provisions of the Agreement, the AGENCY shall pay the DEPARTMENT's reasonable attorney fees and court costs if the DEPARTMENT prevails.

2) The DEPARTMENT shall perform phases of the PROJECT as outlined in Exhibit "A" and coordinate with the AGENCY.

3) The DEPARTMENT shall make the landscape plans available to the AGENCY for inspection, if the AGENCY so desires, and shall furnish progress reports, if requested by the AGENCY.

4) Any notice or other document which either party is required to give or deliver to the other shall be given in writing and addressed as described in Exhibit "D", attached hereto and by reference made a part hereof.

5) The parties recognize and accept the funding restrictions set forth in Section 339.135(6)(a), Florida Statutes, which may affect the DEPARTMENT's obligations hereunder:

(a) "The department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for the expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The department shall require a statement from the comptroller of the department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the department which are for any amount in excess of \$25,000 and which have a term for a period of more than 1 year."

6) Nothing herein shall be construed to create any third party beneficiary rights in any person not a party to this Agreement.

7) This Agreement shall commence on the date above written and remain in effect and binding on the parties until cancellation, or performance of the parties' obligations hereunder. Any amendment to or modification of this Agreement shall be in writing and signed by both parties. No assignment shall be effected until prior written consent has been given by the DEPARTMENT, which consent shall not be unreasonably withheld.

8) If any provision of the Agreement is held invalid, the remainder of this Agreement shall not be affected thereby if such remainder would then continue to conform to the terms and requirements of the applicable law.

9) The AGENCY warrants that they have not employed or obtained any company or person, other than bona fide employees of their AGENCY to solicit or secure this Agreement and it has not paid or agreed to pay any company, corporation, individual or firm, other than a bona fide employee employed by the AGENCY. For breach or violation of this provision, the DEPARTMENT shall have the right to terminate the Agreement without liability.

10) Each party agrees that it shall be solely responsible for the wrongful acts of its employees, contractors and agents. However, nothing contained herein shall constitute a waiver by either party of its sovereign immunity and the limitations set forth in Section 768.28, Florida Statutes.

11) The DEPARTMENT's participation is contingent upon annual appropriation of its budget by the Florida Legislature.

12) This Agreement shall be governed and construed in accordance with the laws of the State of Florida.

Financial Project ID: 207817-1-32-01
Work Program Item No. (Old): 2110521
County/Section No.: 26-070-000
Agreement Date: _____

IN WITNESS WHEREOF, the parties hereto have executed and affixed their official seals to this Agreement on the date and year first above written.

CITY OF GAINESVILLE
CITY COMMISSION

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

BY: _____

BY: _____
District Two Secretary

TITLE: _____

DATE: _____

DATE: _____

ATTEST: _____

ATTEST: _____
Executive Secretary (SEAL)

TITLE: _____
(SEAL)

APPROVED AS TO FORM:

APPROVED AS TO FORM, LEGALITY

Agency Attorney

Office of District General Counsel

Financial Project ID: 207817-1-32-01
Work Program Item No. (Old): 2110521
County/Section No.: 26-070-000

EXHIBIT "A"

PROJECT DESCRIPTION AND RESPONSIBILITIES

This exhibit forms an integral part of that certain Locally Funded Agreement between the State of Florida, Department of Transportation and the City of Gainesville City Commission dated _____.

PROJECT LOCATION:

State Road 26 (Newberry Road/West University Avenue) from State Road 26A West (SW 2nd Avenue) to North-South Drive located in Gainesville, Florida.

PROJECT DESCRIPTION:

Development of design plans to landscape State Road 26.

Financial Project ID: 207817-1-32-01
Work Program Item No. (Old): 2110521
County/Section No.: 26-070-000

EXHIBIT "B"

PROJECT BUDGET

This exhibit forms an integral part of that certain Locally Funded Agreement between the State of Florida, Department of Transportation and the City of Gainesville City Commission dated _____.

I.	PROJECT ESTIMATED COST:	\$100,000.00
	(LOCAL PORTION)	

II.	PARTICIPATION:	
	LOCAL PORTION (City of Gainesville) PARTICIPATION:	
	Cash – Phase 32 -	\$100,000.00
	Development of landscape design plans.	

	TOTAL PROJECT ESTIMATED COST	\$100,000.00
	(LOCAL PORTION)	

Financial Project ID: 207817-1-32-01
Work Program Item No. (Old): 2110521
County/Section No.: 26-070-000

EXHIBIT "C"

AGENCY RESOLUTION NO. _____

(PAGE LEFT BLANK INTENTIONALLY. AGENCY WILL PROVIDE EXHIBIT "C")

Financial Project ID: 207817-1-32-01
Work Program Item No. (Old): 2110521
County/Section No.: 26-070-000

EXHIBIT "D"

MAILING LIST

Ms. Teresa Scott, P. E.
Public Works Director
City of Gainesville
Post Office Box 490, MS 58
Gainesville, Florida 32602
(352) 334-5074

Ms. Joye Brown
Assistant District Planning Manager
Florida Department of Transportation
Mail Station 2014
Post Office Box 1089
Lake City, Florida 32056-1089
(386) 961-7883

Mr. Fred Wright
Consultant Design Manager
Florida Department of Transportation
Mail Station 2002
Post Office Box 1089
Lake City, Florida 32056-1089
(386) 961-7542

LFA Coordinator
Office of Comptroller
Florida Department of Transportation
Mail Station 24
3717 Apalachee Parkway, Suite E
Tallahassee, Florida 32311
(850) 921-7100

MEMORANDUM OF AGREEMENT

This Agreement, made and entered into this _____ day of _____, _____, by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, hereinafter called the "DEPARTMENT", and the STATE OF FLORIDA DEPARTMENT OF INSURANCE, DIVISION OF TREASURY, hereinafter referred to as the "TREASURY", and the CITY OF GAINESVILLE CITY COMMISSION, hereinafter referred to as the "AGENCY".

WITNESSETH:

WHEREAS, the DEPARTMENT is currently developing the design plans for the following project:

Financial Project ID: 207817-1-32-01
Work Program Item No. (Old): 2110521
County/Section No.: 26-070-000

hereinafter referred to as the "PROJECT"; and

WHEREAS, the DEPARTMENT and the AGENCY entered into a Locally Funded Agreement dated _____; and

WHEREAS, the parties to this Agreement mutually agreed that it would be in the best interest of the DEPARTMENT and the AGENCY to establish an interest bearing escrow account to provide funds for the work performed on the PROJECT on behalf of the AGENCY by the DEPARTMENT.

NOW, THEREFORE, in consideration of the premises and the covenants contained herein, the parties agree to the following:

1. The amount of One Hundred Thousand and No\100 (\$100,000.00) Dollars will be deposited by the AGENCY into an interest bearing escrow account established by the DEPARTMENT for the purposes of the PROJECT. Said escrow account will be opened with the Department of Insurance, Division of Treasury, Bureau of Collateral Management on behalf of the DEPARTMENT upon receipt of this Memorandum of Agreement. Such account will be an asset of the DEPARTMENT.
2. Other deposits will be made only by the AGENCY as necessary to cover the cost of additional work prior to the execution of any Supplemental Agreements or Amendments.
3. All deposits shall be made payable to the Department of Insurance, Revenue Processing and mailed to the DEPARTMENT's Office of Comptroller for appropriate processing at the following address:

Florida Department of Transportation
Office of Comptroller
Mail Station 24
3717 Apalachee Parkway, Suite E
Tallahassee, Florida 32311
ATTN: LFA Coordinator

4. The DEPARTMENT's Comptroller or designees shall be the sole signatories on the escrow account with the Department of Insurance and shall have sole authority to authorize withdrawals from said account.
5. Unless instructed otherwise by the parties hereto, all interest accumulated in the escrow account shall remain in the account for the purposes of the PROJECT as defined in the Locally Funded Agreement.
6. The Treasurer agrees to provide written confirmation of receipt of funds to the DEPARTMENT and the DEPARTMENT will provide confirmation to the AGENCY.
7. The Treasurer's Office further agrees to provide periodic reports to the DEPARTMENT and the DEPARTMENT will provide the reports to the AGENCY upon request.

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

STATE OF FLORIDA
DEPARTMENT OF INSURANCE
DIVISION OF TREASURY

CITY OF GAINESVILLE
CITY COMMISSION

Address: _____

Federal Tax ID No.: _____

